IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3646 OF 2005

Dilip Karbhari Govind ...Applicant

vs.

The State of Maharashtra ...Respondent

Mrs.Sulbha A. Dhamale for the Applicant
Mr.K.V.Saste,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JUNE 23,2005.

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for the State.

2. The Applicant and co-accused Eknath Jagganath Wagh are being prosecuted for the offence punishable under Sections 302, 379 read with Section 34 of I.P.C. The allegation is that the Applicant was last seen together with the deceased. The allegation of the prosecution is that there is a confessional statement by the Applicant by which he has admitted the commission of the offence. He disclosed that other accused i.e. Eknath assaulted the deceased by using stone and caused head injuries. The allegation of the prosecution is that the accused took away a sum of Rs.15,100/- from the person of the deceased and the said amount was taken by the Applicant. According to the prosecution case, at the instance of the Applicant there was a recovery of the amount of Rs.15,100/- and at the instance of the second accused there

is recovery of blood stained clothes. The case of the prosecution is that the tyre prints of the tyres of the motor cycle used by the accused No.2 for reaching the site of the offence were also found. The accused No.2 is admittedly enlarged on bail by order dated 4th April 2005.

3. The learned Additional Sessions Judge rejected the Application of the Applicant by holding that the allegation is of the commission of offence of murder by hitting the deceased on his head by a heavy stone. The learned Judge observed that there was a recovery of cash amount of Rs.15,100/- at the instance of the Applicant. The learned Judge observed that considering the fact that the Applicant is a labourer it is difficult to believe that the cash will be of the Applicant.

4. According to the case of the prosecution a specific allegation of making assault by using a heavy stone is against the Accused No.2 who has been already ordered to be enlarged on bail. The prosecution relied upon the confessional statement of the Applicant in which it is allegedly disclosed that after the deceased was killed by the accused No.2, the cash amount in possession of the deceased was taken by the Applicant.

5. The investigation is admittedly completed and the charge sheet has been filed. After the accused No.2 against whom serious allegation of committing brutal crime in the same

offence is made by the prosecution has been enlarged on bail, there is no reason why the Applicant should not be enlarged on bail. I find from the record that nothing is placed therein to show that there is any reasonable apprehension of the Applicant tampering with the prosecution evidence. There is nothing on record to show that there are any criminal antecedents of the Applicant.

6. Hence I pass the following order :

i) The Applicant shall be enlarged on bail on furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) The Applicant is granted bail subject to the condition that the Applicant will not make any attempt, directly or indirectly, to influence or pressurise the prosecution witnesses in any manner and will not tamper with the prosecution evidence.

iii) The Applicant will cooperate with the learned Trial Judge for expeditious disposal of the trial and any default on the part of the Applicant may be a ground for cancellation of the bail.

JUDGE